



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/506,426

02/02/2005

Robert Alexander Ventzki

085449-0149

1230

22428 7590 10/01/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

HANDY, DWAYNE K

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/506,426	Applicant(s) VENTZKI ET AL.	
	Examiner DWAYNE K. HANDY	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-99 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 70-72 and 74-99 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashizaki et al. (6,120,667). Hayashizaki teaches a device and method for simultaneous separation of biological samples such as protein or DNA by electrophoresis. The device is best shown in Figures 1, 2 and 10. It is best described in columns 6, 7, 10-12 and in the claims. The device includes a first space (holder - 4) with passages for capillaries (2) having separation media and a well plate (66) having an array of wells. The device also includes electrode elements (54, 58) for directing flow. Hayashizaki teaches use of a membrane in column 8, lines 52-61. Methods of using the device are disclosed in columns 9 and 12 and include the steps of causing a sample to migrate within the capillaries for analysis.

Art Unit: 1797

3. Claims 70-72, 74-85, 87, 89-91 and 94-99 are rejected under 35 U.S.C. 102(e) as being anticipated by Wierzbowski et al. (US 2002/0168643). Wierzbowski teaches a device and method for simultaneous separation of biological samples such as protein or DNA by electrophoresis. The device is best shown in Figures 1 and 2 and described in paragraphs [0018] – [0027]. The device includes a first space (block - 20) with wells (40) having separation media and a collection block (100) also having an array of wells (110). The device also includes electrode elements (30, 90) for directing flow. Wierzbowski teaches use of a membrane in paragraph [0037]. Methods of using the device are disclosed in paragraphs [0039] – [0049] and in the claims.

4. Claims 70-76, 78, 82-84, 87-91 and 93-99 are rejected under 35 U.S.C. 102(e) as being anticipated by Desrosiers et al. (6,410,332). Desrosiers teaches a device and method for analysis of reactions. The device is best shown in Figures 2, 5 and 6 (esp. Figures 5 and 6) and described in columns 7-11. The device (See Figure 5 - 170) includes a reaction block (174) with an array of wells (176) and a cover (180) with spaces (192) for a sorbent trap (194). The reaction block also includes controlled heating elements (col. 10, lines 8-17) for heating the wells. Desrosiers teaches detection by optical methods in columns 5 and 6. The method of using the device is described in columns 3, 4 and 10. The method includes the steps of trapping a component in the well, heating the component to release it from the well, and then collecting the component in the sorbent trap in the cover.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE K. HANDY whose telephone number is (571)272-1259. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne K Handy/
Examiner, Art Unit 1797
September 25, 2008

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797